

DRAFT INCLUSIONARY HOUSING ORDINANCE

THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER, STATE OF CALIFORNIA, DOES HEREBY ORDAIN as follows:

Section 1. Declaration of findings

The County of Placer declares that the citizens of the county with moderate, low, and very low incomes are experiencing a housing shortage. Whereas the goal of the County is to achieve a balanced community with housing available for households of all income levels, there exists a shortage of housing that is affordable to many citizens of the County. Federal and state housing subsidies are not sufficient by themselves to satisfy the housing needs of these households. The County finds that the housing shortage for persons of moderate, low, and very low incomes is detrimental to the public health, safety, and welfare.

Placer County has recently experienced a rapid rise in median rents and median housing prices. This chapter is intended that residential development projects within the County contain a defined percentage of housing affordable to moderate, low, and very low income households, and to provide a program of incentives and local public subsidy to assist in this effort. This chapter will also help facilitate the production of very low, low and moderate income households to help satisfy the fair share requirements of the Sacramento Area Council of Governments (SACOG).

The amount of land in the County available for residential development is limited by a lack of availability and the high cost of infrastructure, the planning principles embodied in state law pertaining to general plans, and by mandates in federal law. Scarce remaining opportunities for affordable housing would be lost by the consumption of land for residential development without providing housing affordable to persons of all incomes.

Therefore, to implement the County General Plan, to carry out the policies of state law, and to ensure the benefits of economic diversity to the residents of the County, it is essential that new residential development contain housing opportunities for all income levels, and that the County provide a regulatory and incentive framework which ensures development of an adequate supply and mix of new housing to meet the future housing needs of all income segments of the community.

Section 2. That Article 15.70, entitled Inclusionary Housing, is hereby added to Chapter 15, Building and Development, of the Placer County Code to read as follows:

15.70.010 Purpose and intent

This chapter is intended to assist in the provision of affordable housing for persons of moderate, low and very-low income. The program is designed to promote a full range of housing choices, to require construction and continued existence of affordable dwelling units, to provide for a program of incentives, and to implement the Housing Element of the County's General Plan.

15.70.020 Definitions

Unless the context clearly requires otherwise, the definitions in this section shall govern the provision of this article.

"Affordable" means rented at an affordable rent or sold at an affordable housing price.

"Affordable rent" means for a unit whose occupancy is restricted to a very low-income household that the monthly rent, including utilities and all fees for housing services shall not exceed 30% for households earning fifty percent (50%) or less of the median income or for a unit whose occupancy is restricted to a low income household that the monthly rent, including utilities and all fees for housing services, shall not exceed 30% for households earning fifty percent (50%) to eighty percent (80%) of the median income as defined herein. Affordable rent shall be based on presumed occupancy levels of one person in a studio unit, two persons in a one-bedroom unit, three persons in a two-bedroom unit, and one additional person for each additional bedroom thereafter.

"Affordable sales price" means the maximum purchase price that will be affordable to low and moderate-income households as defined herein. In setting the affordable sales price, realistic assumptions regarding down payment, mortgage interest rate and term will be required and those assumptions must demonstrate that targeted income families can reasonably qualify. If evidence is presented which shows to the satisfaction of the County that targeted income buyers can qualify for financing even though the percentage of their income allocated to housing is higher than thirty percent, then a corresponding increase may be approved in the affordable sales price. Affordable sales price shall be based upon presumed occupancy levels of one person in a studio unit, two persons in a one-bedroom unit, three persons in a two-bedroom unit, and one additional person for each additional bedroom thereafter.

"Affordable units" means and is limited to those dwelling units which are required to be rented at affordable rents or purchased at an affordable sales price to specified households as described in this article.

"Annual household income" means the combined gross income for all adult persons living in a dwelling unit as calculated for the purpose of the Section 8 program under the United States Housing Act of 1937, as amended, or its successor.

"Board" means the Placer County Board of Supervisors.

"Building permit" means a permit issued pursuant to Chapter 15 of the Placer County Code.

"Construction costs" means the estimated cost per square foot of construction, as established by the building department for use in the setting of regulatory fees, multiplied by the total square footage to be constructed.

"County RDA" means the Placer County Redevelopment Agency.

“Discretionary permit” shall include use permits issued pursuant to Chapter 17 of the Placer County Code, and the approval of tentative, final or parcel maps pursuant to Chapter 16 of the Placer County Code.

“Dwelling unit” shall have the meaning set forth in Section 17.03.010 of the Placer County Code.

“Low income households” are those households with incomes of up to eighty percent (80%) of median income, or as set out in Health & Safety Code Sections 50079.5 and 50093.

“Market rate units” means dwelling units in a residential project, which are not affordable units.

“Median income” means the median income, adjusted for family size, applicable to Placer County as published annually pursuant to Title 25 of the California Code of Regulations, Section 6932 (or its successor provision) by the United States Department of Housing and Urban Development.

“Moderate income households” are those households with incomes of up to one hundred twenty percent (120%) of median income, or as set out in Health & Safety Code Section 50093.

“Monthly owner-occupied housing payment” shall be that sum equal to the principal, interest, property taxes, utilities, homeowner’s insurance and homeowner’s association dues paid on an annual basis divided by twelve.

“Planning commission” shall mean the Placer County planning commission.

“Planning director” means the director of the Placer County planning department or the designee of said director.

“RDA” shall mean the County’s Redevelopment Agency

“Residential project” means a proposed residential development or subdivision of land, including condominium and timeshare projects, or the construction or rehabilitation of any dwelling unit for which a building permit or discretionary permit is issued by the county; provided, however, that residential project shall not include (1) the construction of any dwelling unit for which the construction costs do not exceed fifty-five thousand dollars (\$55,000), or (2) the rehabilitation of any dwelling unit for which the construction costs do not exceed fifteen thousand dollars (\$15,000).

“Section” unless otherwise indicated, means a section of the Placer County Code.

“Substantial rehabilitation” means rehabilitation of existing dwelling units to insure that they will remain available at affordable housing cost to persons of moderate, low and very low income for the longest feasible time, but for not less than 30 years.

“Targeted income families” means those households that meet the classification as moderate, low and very low-income households as defined in this ordinance.

“Very low-income households” are those households with incomes of up to fifty percent (50%) of median income, or as set out in Health & Safety Code Section 50105.

15.70.030 Inclusionary unit requirement

At least fifteen percent (15%) of all newly constructed dwelling units in a residential project shall be developed, offered to, and sold or rented to very low, low, and moderate-income households, at an affordable housing cost, as follows:

Requirements for owner-occupied affordable units. Sixty percent (60%) of the affordable units, which are required to be constructed in connection with the construction of market rate units intended for owner-occupancy, shall be available at affordable sales prices to moderate-income households. The remaining forty percent (40%) of the required affordable units shall be available at affordable sales prices to low-income households.

Requirements for renter-occupied affordable units. Sixty percent (60%) of the affordable units, which are required to be constructed in connection with construction of rental market rate units, shall be available at affordable rents to low-income households. The remaining forty percent (40%) of the required affordable units shall be available at affordable rents to very low-income households.

The affordable units shall be constructed on-site not later than the related market rate units, unless one of the alternative actions set forth in Section 15.70.060 is performed. Such dwelling units shall include a covenant that each dwelling unit shall be affordable for 30 years. For fractions of affordable units, the owner of the property must either construct the next higher whole number of affordable units, or perform an alternative action as specified in Section 15.70.060.

15.70.050 Design and building requirements

All inclusionary units shall be comparable with the market rate units in terms of the size, base design, appearance, materials, and finished quality; and shall be appropriately dispersed throughout the project. Square footage of affordable units and interior features in affordable units need not be the same as or equivalent to those in market rate units in the same residential project, so long as they are of good quality and are consistent with contemporary standards for new housing.

Affordable units shall be dispersed throughout the residential project, or, subject to the approval of the planning director, may be clustered within the residential project when this furthers affordable housing opportunities.

All affordable units in a residential development shall be constructed concurrently with or prior to the construction of the market rate units. In the event that the County approves a phased project, the inclusionary units required by this ordinance shall be provided proportionally within each phase of the residential development.

15.70.060 Alternatives to On-Site Inclusionary Housing

In lieu of including the affordable housing units on-site at the residential development, the requirements of this ordinance may be satisfied through one of the alternatives discussed below. Projects proposing to meet the minimum requirement for affordability through equivalency shall submit an equivalency proposal to the planning director for approval. Such proposals shall show why compliance with this ordinance is not financially or otherwise feasible and how the alternative proposed will further affordable

housing opportunities in the County to an equal or greater extent than compliance with the express requirements set forth under the Inclusionary Unit Requirement. A proposal for an alternative equivalent action may include, but is not limited to, the construction of affordable units on another site, dedication of vacant land, and/or the acquisition or rehabilitation of existing standard dwelling units and the enforcement of required rental/sales price restrictions.

Applicants may propose to construct rental affordable units in lieu of owner-occupied affordable units and shall submit an equivalency proposal pursuant to this section.

Alternative Equivalency Proposals.

Off-site housing: If the County determines that on-site inclusionary housing is infeasible based on large minimum lot size requirements, availability of services, limited road access, project location, and lack of adequate infrastructure, the developer may satisfy the requirements of providing inclusionary units as part of the residential development, in whole or in part, by constructing or substantially rehabilitating equal to or greater than the required inclusionary units at a site different than the site of the residential development.

Dedication of land for housing: If the County determines that on-site or off-site inclusionary housing is infeasible, the developer may satisfy the requirement of providing inclusionary units as part of the residential development, in whole or in part, by a conveyance of land to the County for the construction of the required inclusionary units.

Payment of an in-lieu fee: In exceptional cases where the County determines that on-site inclusionary housing, off-site inclusionary housing, or the dedication of land infeasible, a fee in lieu of all or some of the inclusionary units may be paid by the developer.

Further Specifications for Alternative Equivalency Proposals

Standard for Approval. The planning director may approve an equivalency proposal only if it is not financially or otherwise feasible to construct the units within the development and the alternative provides a more cost-efficient solution to the inclusionary housing component than the standard approach set forth in this document, or if the location of off-site development would be superior to on-site development from the perspective of access to transportation, services, public facilities or other applicable residential planning criteria in the general plan. The Planning Director shall make a finding that it is not financially feasible to include units in the development, based in part on a proforma financial analysis.

Affordable Units Off-Site. An applicant may propose to meet its obligation under the ordinance through new construction, substantial rehabilitation of dwelling units, or adaptive reuse of an existing structure(s) at a location off-site from the proposed residential development.

Number of Inclusionary Units Credited to the Dedication of Land. The number of inclusionary units credited to the dedication of land will shall be based upon the number

of inclusionary units which can with a reasonable degree of certainty be developed on the land, given (1) the mix of inclusionary unit sizes and type of structure in the equivalency proposal; (2) densities permitted by applicable planning and zoning designations; and (3) site, infrastructure, environmental and other physical and planning constraints and shall be at least equal in value to the cost of land providing the required number of affordable units.

Site Suitability. The land proposed for dedication must be suitable from the perspective of size, configuration, physical characteristics, physical and environmental constraints, access, location, adjacent use, and other relevant planning criteria.

Site Identification and Regulatory Status. The developer must identify the proposed dedicated site and the number of proposed units to be credited thereby as part of the equivalency proposal required in this document. At the same time or before the development project receives its entitlements, the dedicated land shall have received all the entitlements necessary for development of the inclusionary units on such land. Unless the phasing plan requires otherwise, at the same time or before a residential project records a final map, or is issued a building permit, whichever is earlier, the dedicated land shall have received all the necessary project-level approvals necessary for development of the inclusionary units on such land, and prior to the issuance of any certificate of occupancy for a residential project, the dedicated land shall be fully served with the infrastructure (sewer, water, and roads) necessary for residential development.

Planning Director Review. If the equivalency proposal is accepted or accepted as modified by the planning director, the relevant elements of the equivalency proposal shall be included in the applicable approvals for both the residential development generating the requirement for the inclusionary housing component and, if applicable, the dedicated site, off-site development, or rehabilitation project where all or part of that requirement is proposed to be met. If the equivalency proposal is rejected, the inclusionary housing component shall be provided as set forth in this document within the development project.

Implementation. As early as possible in the regulatory process, the owner of the residential project must: (1) in the case of land dedication, provide an irrevocable offer of dedication for the dedicated site at no cost to the County or to a developer of affordable housing approved by the County; and (2) in the case of off-site development, demonstrate to the planning commission that the off-site location is and will remain committed to the timely development of the inclusionary units; and (3) in the case of new construction or substantial rehabilitation of rental units, assure that the units will be rent restricted for 30 years with respect to each affordable unit. The commitment of off-site land may be demonstrated through ownership of the off-site location, or through adequate control of the use of the off-site location through joint-ownership, joint venture or other contractual means. If necessary to ensure that inclusionary housing units are developed or rehabilitated contemporaneously with the market rate units, the County may require the offer of dedication, evidence of off-site control, or commencement of rehabilitation as early as the recording of a final map or issuance of a building permit, whichever occurs first.

With respect to an off-site location, the planning commission may also condition development or occupancy of the residential project on development or occupancy of the off-site inclusionary units, and the inclusionary housing agreement must apply to and be

recorded against both the residential project and the off-site development. With respect to dedicated land, the County, upon acceptance of the offer of dedication, shall publish a request for proposal for development of the site(s) which will result in the production of at least the number of inclusionary units credited to the site(s).

15.70.070 Affordable Housing Incentives

The developer may request that the County provide inclusionary incentives as set forth in this Section. The goal of these inclusionary incentives is to apply available incentives to qualifying projects in a manner that, to the extent feasible, offsets the cost of providing the inclusionary housing component. The planning director shall respond to that request and make a determination as to a package of inclusionary incentives.

Fee Waivers or Deferrals. Upon application as provided herein, the County shall make available a program of waiver, reduction, or deferral of development fees, and/or administrative fees for affordable units. Such a program may include a fifty percent (50%) waiver of development-related application and processing fees for affordable units constructed in connection with such residential project. In addition, the planning commission may consider, on a case-by-case basis, the provision of additional incentives as provided by law or in the Housing Element of the Placer County general plan.

Modification of Planning and Public Works Development Standards. Upon application as provided herein, the County may modify for affordable units, to the extent feasible, in light of the uses, design, and infrastructure needs of the development, standards relating to road widths, curbs, and gutters, parking, lot coverage, and minimum lot sizes.

Interior Finish Reductions. Upon application as provided herein, the County may, to the maximum extent appropriate in light of project design elements, allow builders to finish the interior of affordable units with less expensive finishes and appliances than the market rate units.

Streamlining and Priority Processing. The planning director may authorize the expedited permit process which can relieve affordable units of the time constraints to the maximum extent feasible consistent with the public health, safety, and welfare.

Density Bonus. The County shall make available to the developer a density bonus as provided in state density bonus law (Government Code Section 65915), however, the affordability requirements to qualify for a density bonus shall be those stated in Section 15.70.030 and the other provisions of this article. Market rate units produced as part of such a density bonus do not give rise to an inclusionary housing component.

Local Public Funding. Residential units required by this ordinance are not eligible to receive assistance from local public funding for affordable housing. Assistance from RDA Housing Set-Aside, County Housing Trust Fund, and similar local

sources is limited to those affordable units provided in additions to ordinance requirements.

15.70.080 Time Performance Required

No temporary or permanent certificate of occupancy for any new dwelling unit in a residential project shall be issued until the permittee has met the on-site construction inclusionary requirement of the residential development or has satisfactorily performed one of the alternative actions set forth in this document.

15.70.090 Exempted Residential Development

The following development projects are exempt from this chapter and generate no obligation to provide an inclusionary housing component:

- Residential projects proposed to contain six (6) or fewer residential dwellings at one location;
- Rehabilitation of existing residential dwellings;
- Market rate units resulting from a density bonus;
- Any residential project for development of single-family residential units on subdivision lots created pursuant to a final map recorded on or before 1-1-03.
- Projects, which provide employee housing per Section_____ of the Zoning Ordinance, are exempt from the provisions of this ordinance.

15.70.100 Continue Affordability

Prior to the issuance of certificates of occupancy for affordable units, regulatory agreements and, if the affordable units are owner-occupied, resale restrictions, deeds of trust and/or other documents, all of which must be acceptable to the Placer County Redevelopment Agency (RDA), shall be recorded against parcels having such affordable units and shall be effective for at least the period of time required by Health and Safety Code Section 33413 with respect to each affordable unit.

The maximum sales price permitted on resale of an affordable unit intended for owner-occupancy shall not exceed the seller's purchase price, adjusted for the percentage increase in median income since the seller's purchase, plus the value of substantial structural or permanent fixed improvements to the property to the property as determined by the County Assessor. For purposes of this subdivision, median income shall be calculated based upon the presumed occupancy level used to determine affordable sales price. The resale restriction shall provide in the event of the sale of an affordable unit intended for owner-occupancy, the County shall have the right to purchase such an affordable unit at the maximum price, which could be charged to an eligible household.

No household shall be permitted to occupy an affordable unit, or purchase an affordable unit for owner-occupancy, unless the county or its designee has approved the household's eligibility, or has failed to make a determination of eligibility within the time or other limits provided by a regulatory agreement or resale restrictions. Households selected to

occupy affordable units shall be selected first from the list of eligible households maintained by County RDA to the extent provided in the regulatory agreement or resale restrictions.

15.70.110 Enforcement

It shall be a misdemeanor for any person to sell or rent an affordable unit as specified in this ordinance at a price or rent exceeding the maximum allowed or to a household not qualified, unless authorized by the regulatory agreement for such unit.

The Placer County office of county counsel or the Placer County district attorney, as appropriate, shall be authorized to enforce the provisions of this document and all regulatory agreements and resale controls placed on affordable units by civil action and any other proceeding or method permitted by law.

Failure of any official to fulfill the requirements of a provision of this document shall not excuse any applicant from fulfilling the remaining requirements of the ordinance.

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